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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/595,476	01/12/2007	Rie Takahashi	YAMAPI011US	1209
51921 7590 10/07/2008 MARK D. SARALINO (PAN) RENNER, OTTO, BOISSELLE & SKLAR, LLP 1621 EUCLID AVENUE 19TH FLOOR CLEVELAND, OH 44115				
EXAMINER ORTIZ CRIADO, JORGE L				
ART UNIT 2627		PAPER NUMBER		
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/595,476

**Applicant(s)**

TAKAHASHI ET AL.

**Examiner**

JORGE L. ORTIZ CRIADO

**Art Unit**

2627

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 January 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,2,7 and 13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 1,2,7 and 13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on 21 April 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SF-08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

Claim 2 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 2 recites “Blu-ray” and the claim scope is uncertain since the “Blu-ray” trademark or trade name cannot be used properly to identify any particular material or product (i.e. disc). The value of a trademark would be lost to the extent that it became descriptive of a product, rather than used as an identification of a source or origin of a product.

Thus, the use of a trademark or trade name in a claim to identify or describe a material or product would not only render a claim indefinite, but would also constitute an improper use of the trademark or trade name. See MPEP 2173.05(u).

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 7 and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Kimura JP 2001-028129.

Regarding claim 1, Kimura discloses a tracking control apparatus in an optical disc apparatus for performing reproduction for an optical disc capable of reproduction-only and performing recording/reproduction for an optical disc capable of recording/reproduction, comprising:

focusing means (5) for forming an optical beam spot on a recording surface of an optical disc by focusing light beam on the recording surface of the optical disc;

moving means (7) for moving the optical beam spot in a radial direction of the recording surface of the optical disc; photodetection means (10) having a light receiving surface for detecting light reflected off the optical disc, in which the light receiving surface is separated into a plurality of areas (A, B, C, D), and each of the plurality of areas is formed to generate a received light quantity signal in accordance with a received light quantity and to output the received light quantity signal (see Fig. 3);

a filter section (37a-37d) including a plurality of low-pass filters (Fig. 4), in which each of the plurality of low-pass filters removes a component having a frequency equal to or higher than a predetermined cutoff frequency (see Fig. 5) from a corresponding received light quantity signal among a plurality of the received light quantity signals output from the photodetection means;

a switching section (104) for selectively outputting one of a plurality of signals output from the low-pass filters and a plurality of signals output from the plurality of areas of the photodetection means;

a tracking error detection section (35) for generating a tracking error signal indicating an amount of deviation of the optical beam spot from a track to be scanned on the recording surface of the optical disc by performing a predetermined calculation with respect to the plurality of signals output from the switching section; and a tracking control section (36) for driving the moving means such that the optical beam spot follows the track on the recording surface of the optical disc in accordance with the tracking error signal,

wherein the switching section provides the signals output from the photodetection means to the tracking error detection section when an optical disc inserted into the optical disc apparatus is the optical disc capable of reproduction-only (optical recordable disc; see [0001]-[0002]), and

provides the signals output from the filter section to the tracking error detection section when an optical disc inserted into the optical disc apparatus is the optical disc capable of recording/reproduction (optical recordable disc; see [0001]-[0002]).

Regarding claims 7 and 13 are drawn to the method and signal processing apparatus corresponding to the tracking control apparatus of claim 1, and are rejected for the same reason of anticipation.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kimura JP 2001-028129.

Kimura disclose whether the optical disc is a recordable optical disk, and does not expressly disclose whether the optical is one of the specified in claim 2.

However, these are merely the well known optical disks standards use in the art and Official Notice is taken. For example it would have been obvious to record on a DVD optical disk since the latter provides for high density data recording/reproduction in comparison with a CD, and so on with the other types.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JORGE L. ORTIZ CRIADO whose telephone number is (571)272-7624. The examiner can normally be reached on Mon.-Fri 10:00 am- 6:30 pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Feild can be reached on (571) 272-4090. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jorge L Ortiz-Criado/  
Primary Examiner, Art Unit 2627